

VIA FACSIMILE AND FEDERAL EXPRESS

August 15, 2001

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1-36999
Ms. Marilynne Jacobs
Director of the Office of Vehicle Safety Compliance
National Highway Traffic Safety Administration
Docket Management - Room PL-401
400 Seventh St., SW
Washington, D.C. 20590

RE: Docket Number: NHTSA 2001-9628 - 8

Ms. Jacobs:

I write this letter in response to the above referenced docket number, in the petition filed by J.K. Technologies ("JKT"). Specifically, this petition, made pursuant to 49 U.S.C 30141(a), seeks a decision that non-conforming 2001 Ferrari 360 passenger cars are eligible for importation into the United States. I do not represent the manufacturer, a registered importer, Automobile Association, nor any other for-profit (or non-profit) enterprise. I have recently purchased, out of the United States (Italy, to be precise) a Ferrari 360 F1 Spider for my personal use and it is currently sitting in a warehouse (not JKT) waiting for your Department's decision.

I respectfully request that the *petition for eligibility be approved*, for the following reasons. And the request by FNA for additional time to supplement its response be denied.

After careful review of the letter written by Ferrari North America, Inc. ("FNA"), it appears that FNA is protecting it's own interest, at the expense of others, by attempting to convolute the issue of safety; for which your department is responsible.

FNA tries to make the argument that the U.S. car and the import version could not possibly be substantially similar do to "the dollar value of the parts needed to" establish compliance. This is incredulous. The procedure as to deciding on motor vehicle capability simply requires that the petitioner provide information to show clearly that the motor vehicle is capable of being brought into compliance (49 U.S.C. 39141(b)(1)). Whatever costs are associated with bringing the vehicle into compliance are a matter for the vehicle owner or importer. Therefore, the issue of costs is irrelevant.

In fact, FNA in its response letter acknowledges that this vehicle *can be* brought into compliance:

“306 parts are necessary to conform a Ferrari 360 to U.S. emissions and Safety specifications”, their response continues; “unless all of these parts were installed, the Vehicles would not be substantially similar”.

FNA states that 306 parts are necessary for conformity (Model 360), implying that this is a great number of parts, yet it does not state the total amount of parts that make up the car. I suspect that there are thousands of parts used in the manufacture of this car. Consequently, the allegation that 306 parts are necessary, even if true, is not cause for alarm or denial of the petition

Moreover, FNA does not state if these 306 parts are individual parts or, alternatively, many smaller parts comprising a single assembled apparatus that can be acquired as a unit. FNA should have disclosed in its response, the exact parts it believes are necessary for compliance. In light of FNA's putative knowledge concerning the retail price of the repairs (\$68,020.87), this disclosure would have been easy to make and it should have been made. Instead, FNA has requested more time to respond to the petition when, in fact, all of the relevant facts are already before the NHTSA.

FNA mistakenly has included argument with respect to emissions standards. It is my understanding that the NHTSA is not responsible for emission standards; in fact my vehicle (Model 360) has already been tested *and approved* by the EPA.

FNA has voiced its strong opposition to the eligibility for importation and stated that the petitioner has not “exercised due care”. Yet, a review of the listed FMVSS standards only shows four (4) areas of concern. One (1), FMVSS 214, does not apply to the Ferrari 360. I believe the Petitioner should be allowed to respond to the other three (3) issues raised.

In their response, FNA also discuss CAFÉ and Luxury Tax, these are self-serving statements and show more futile attempt by FNA to deviate from the core issue of compliance. In fact, it appears that FNA wishes to debate the entire R.I. program, in that they state; “it nonetheless reveals another fundamental unfairness of the R.I. program”.

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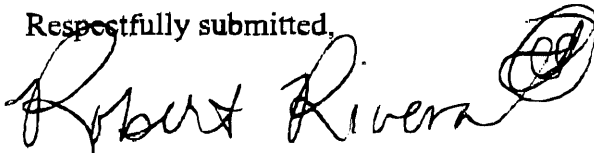
I ask that the NHTSA deny FNA's request for an extension for the following reasons:

1. The closing date for comments on the petition was originally set for June 20, 2001 (Federal Register, vol 66, No. 98, May 21, 2001);
2. FNA asked for, and received an extension already nine (9) days after closing (FNA letter dated June 29, 2001);
3. FNA's request for extension to respond was August 10, 2001.
4. U.S. Code, Title 49, Section 30141(b)(1); states in part; that the Secretary shall provide for "ensuring expeditious, but complete, consideration and avoiding delay by any person".

It appears that Ferrari of North America, in its desire to preclude any vehicle trades outside of its dealer network, is raising objections that are invalid and/or questionable, and more egregiously, is requesting additional time to create an excuse that fits its ultimate goal.

Thank you for your prompt attention to this matter.

Respectfully submitted,


Robert Rivera

RR:ls

Cc:

Mr. George Entwistle; Office of Safety Compliance – NHTSA

Mr. Luke Loy; Office of Safety Compliance – NHTSA

Mr. Taylor Vinson; Office of Chief Counsel, Department of Transportation - NHTSA